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10/813,491	03/30/2004	Edgar Vaughan Shrum JR.	9400-346/BS030801	4902
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EXAMINER				
SHAH, ANTIM G				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/813,491

Applicant(s)

SHRUM ET AL.

Examiner

ANTIM SHAH

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 01/13/2009 has been entered. Claims 1, 3, 7-10 have been amended. Claims 4-5 have been cancelled. No Claims have been added. Claims 1-3, 6-10 are still pending in this application, with claims 1 and 7-10 being Independent claims.
2. The amendment filed 1/13/2009 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The USPTO "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility" (Official Gazette notice of 22 November 2005), Annex IV, reads as follows:

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. (The definition of "data structure" is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).) "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data.

When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be

realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994) (claim to data structure stored on a computer readable medium that increases computer efficiency held statutory) and *Warmerdam*, 33 F.3d at 1360-61, 31 USPQ2d at 1759 (claim to computer having a specific data structure stored in memory held statutory product-by-process claim) with *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory).

In contrast, a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory. See *Lowry*, 32 F.3d at 1583-84, 32 USPQ2d at 1035.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 10 defines a computer program embodying functional descriptive material. However, the claim does not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized" – Guidelines Annex IV). That is, the scope of the presently claimed a computer program can range from paper on which the program is written, to a program simply contemplated and memorized by a person. In the Specification Section, Paragraph 0006 states, "This invention includes a software product termed a **Communication Module**", which is a computer program. Also, claim 10 claims purely a computer program code (software) without executing on any processor.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-3, 6-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,747,970 to Lamb *et al.* ("Lamb") in view of U.S. Patent Publication No. 2003/0012178 to Mussman *et al.* ("Mussman").

With regards to **Claim 1**, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting (Via; Column 33, Line 49) a message (Inter-Agent Messages, 235; Fig 4; Column 33, Line 14) from a communications module [Inter-Process Communication (IPC) Mechanism; Column 33, Lines 16-17) through a Voice-Over Internet Protocol communications network (Computer Network, 200; Fig 4; Column 34, Line 58) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internal Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) exists in the Voice-Over Internet Protocol communications network (Computer Network, 200; Fig 4; Column 34, Line 58); and determining (Determine;

Column 33, Line 14) that the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Calling Status; Column 33, Line 24) in response to a failure to receive a response to the message (Periodic Polling; Column 34, Line 20) from the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49); and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information relating to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) in response to determining (Determine; Column 33, Line 14) that the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Availability Information, Step 553; Fig 7; Column 47, Line 17), so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Contact Other User Agent; Column 47, Lines 34, 35) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Lamb briefly discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (Availability Information, Step 553; Fig 7; Column 47, Line 17, Table 1, "Invite Processing Rules", As per Lamb, The invite

processing rules specifies user or system defined or supplied rules that specify how particular calling circumstances are to be handled. This is similar as network defined processing rules).

In the same or similar field of invention, *Mussman* discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (*Mussman* paragraph 0005, 0020-0021, 0025, 0027).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Lamb to have reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available as taught by *Mussman*. The suggestion/motivation would have been to provide network redundancy for failure of a IP communication device (*Mussman* paragraph 0027).

With regards to **Claim 2**, Lamb discloses a method, wherein the step of determining (Determine; Column 33, Line 14) the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) comprises determining whether the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) fails (Availability

Information, Step 553; Fig 7; Column 47, Line 17) to respond to the message (Periodic Polling; Column 34, Line 20) transmitted by the communication module (User Agent, 301.1-N; Fig 4; Column 33, Line 24).

With regards to **Claim 3**, Lamb discloses a method, further comprising the step of; If the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) fails (Availability Information, Step 553; Fig 7; Column 47, Line 17) to respond to the communication (Periodic Polling; Column 34, Line 20), then reconfiguring (Smart Routing; Column 34, Lines 52-53) the call routing information based upon at least one of i) network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) subscriber-defined logic (Future Status Information; Column 34, Line 29).

With regards to **Claim 6**, Lamb teaches a method, wherein the step of determining (Determine; Column 33, Line 14) the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) comprises polling (Periodic Polling; Column 34, Line 20) the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

With regards to **Claim 7**, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of; polling (Periodic Polling; Column 34, Line 20) an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131

and 132; Fig 4; Column 33, Line 47) exists (Availability Information, Step 553; Fig 7; Column 47, Line 17) in a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34); and if the signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) fails to exist (Availability Information, Step 553; Fig 7; Column 47, Line 17), then reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon at least one of i) network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) subscriber-defined logic (Future Status Information; Column 34, Line 29), wherein the call routing information is reconfigured (Smart Routing; Column 34, Lines 52-53) based upon an availability (Availability Information, Step 553; Fig 7; Column 47, Line 17) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Lamb briefly discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to

determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (Availability Information, Step 553; Fig 7; Column 47, Line 17, Table 1, "Invite Processing Rules", As per Lamb, The invite processing rules specifies user or system defined or supplied rules that specify how particular calling circumstances are to be handled. This is similar as network defined processing rules).

In the same or similar field of invention, *Mussman* discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (*Mussman* paragraph 0005, 0020-0021, 0025, 0027).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Lamb to have reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available as taught by *Mussman*. The suggestion/motivation would have been to provide network redundancy for failure of a IP communication device (*Mussman* paragraph 0027).

With regards to **Claim 8**, Lamb teaches a method of providing communications services (Advanced Telecommunication Services; column 25, Line 51), comprising the steps of: polling (Periodic Polling; Column 34, Line 20) an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) exists (Availability Information, Step 553; Fig 7; Column 47, Line 17) in a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34); and if a response (Availability Information, Step 553; Fig 7; Column 47, Line 17) is not received within a specified time (Determine; Column 33, Line 14), then the reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon at least one of i) the network-defined logic (Availability Information, Step 553; Fig 7; Column 47, Line 17) and ii) the subscriber-defined logic (Future Status Information; Column 34, Line 29), wherein the call routing information is reconfigured (Smart Routing; Column 34, Lines 52-53) based upon an availability

(Availability Information, Step 553; Fig 7; Column 47, Line 17) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Lamb briefly discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (Availability Information, Step 553; Fig 7; Column 47, Line 17, Table 1, "Invite Processing Rules", As per Lamb, The invite processing rules specifies user or system defined or supplied rules that specify how particular calling circumstances are to be handled. This is similar as network defined processing rules).

In the same or similar field of invention, *Musman* discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (*Musman* paragraph 0005, 0020-0021, 0025, 0027).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Lamb to have reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by

the communications server is not available as taught by *Mussman*. The suggestion/motivation would have been to provide network redundancy for failure of a IP communication device (*Mussman* paragraph 0027).

With regards to **Claim 9**, Lamb discloses a system, comprising: a Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) stored in a memory device (Memory, 230; Fig 4; Column 29, Line 31), and a processor (Processor, 210, Column 29, Line 31) communicating with the memory device (Memory, 230; Fig 4; Column 29, Line 31); the Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting a message (Call Application Message, 240; Fig 4; Column 47, Line 27) from a communications module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) through a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) exists in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-

49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device based upon the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Lamb briefly discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (Availability Information, Step 553; Fig 7; Column 47, Line 17, Table 1, "Invite Processing Rules", As per Lamb, The invite processing rules specifies user or system defined or supplied rules that specify how particular calling circumstances are to be handled. This is similar as network defined processing rules).

In the same or similar field of invention, *Mussman* discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when

any IP communications device served by the communications server is not available (*Mussman* paragraph 0005, 0020-0021, 0025, 0027).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Lamb to have reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available as taught by *Mussman*. The suggestion/motivation would have been to provide network redundancy for failure of a IP communication device (*Mussman* paragraph 0027).

With regards to **Claim 10**, Lamb discloses a computer program product, comprising: a computer-readable medium (Memory, 230; Fig 4; Column 29, Line 31); and a Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) stored on the computer-readable medium (Memory, 230; Fig 4; Column 29, Line 31), the Communications Module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) determining (Determine; Column 33, Line 14) a state (Status; Column 33, Line 14) of an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) by transmitting a message (Call Application Message, 240; Fig 4; Column 47, Line 27) from a communications module (User Agent, 301.1-N; Fig 4; Column 33, Line 24) through a Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) to an Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) to

determine (Determine; Column 33, Line 14) if a signaling path (Call Connections, 131 and 132; Fig 4; Column 33, Line 47) to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) exists in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) and reconfiguring (Smart Routing; Column 34, Lines 52-53) call routing information for calls addressed to the Internet Protocol communication device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) so that an incoming call in the Voice-Over Internet Protocol communications network (VOIP Connection, Step 557; Fig 7; Column 48, Line 34) addressed to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) is routed to an alternate (Alternatively; Column 47, Line 33) communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) instead of to the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49) based upon the state (Status; Column 33, Line 14) of the Internet Protocol communications device (Telephone, 106 and 108; Fig 4; Column 33, Lines 48-49).

Lamb briefly discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (Availability Information, Step 553; Fig 7; Column 47, Line 17, Table 1, "Invite Processing Rules", As per Lamb, The invite processing rules specifies user or system defined or supplied rules that specify how

particular calling circumstances are to be handled. This is similar as network defined processing rules).

In the same or similar field of invention, *Mussman* discloses reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available (*Mussman* paragraph 0005, 0020-0021, 0025, 0027).

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Lamb to have reconfiguring call routing information in a database of network routing instructions relating to the IP communications device in response to determining that the signaling path fails to exist based upon network-defined logic that specifies alternate routing destinations when any IP communications device served by the communications server is not available as taught by *Mussman*. The suggestion/motivation would have been to provide network redundancy for failure of a IP communication device (*Mussman* paragraph 0027).

Response to Arguments

1. Applicant's arguments filed on 1/13/2009 with respect to claims 1-3, 6-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTIM SHAH whose telephone number is (571)270-5214. The examiner can normally be reached on Monday to Friday 7:30 am-5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar can be reached on (571)272-7488. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. S./

Examiner, Art Unit 2614

/Ahmad F Matar/

Supervisory Patent Examiner, Art Unit 2614